

CITY COUNCIL REPORT



Meeting Date: *December 4, 2012*
General Plan Element: *Public Services & Facilities*
General Plan Goal: *Partner with other jurisdictions and agencies*

ACTIONS

Adopt Resolution 9269 authorizing Intergovernmental Agreement No. 2012-191-COS with Maricopa County for the installation and operation of municipal and public safety radio communications on City and County properties.

Adopt Resolution 9270 authorizing Intergovernmental Agreement No. 2012-192-COS with the State of Arizona, Department of Public Safety for the installation and operation of municipal and public safety radio communications at the DPS radio site on Thompson Peak.

Adopt Resolution 9271 authorizing Intergovernmental Agreement No. 2012-193-COS with Maricopa County and the State of Arizona, Department of Public Safety for the installation and operation of municipal and public safety radio communications on the County property on Thompson Peak.

BACKGROUND

The City's public safety radio communications network and the water department have the opportunity to install and operate microwave dishes and SCADA telemetry antennas on a newly constructed tower on Thompson Peak. The tower and new communications building – built on Maricopa County property – were completed in May 2012 through a joint project between the State of Arizona Department of Public Safety (ADPS) and the City of Mesa.

The microwave dishes will provide additional communications paths for the City's internal communications network, including the public safety radio sites and major City facilities. The SCADA antennas will provide the water department with a "high" site that will provide improved radio communications to water pump stations, booster stations, and well sites.

The City has been interested in locating microwave and radio communications on Thompson Peak for several years, however, the two original radio towers were at capacity. This new tower and equipment building provides the City with a unique opportunity to leverage the benefits of being on Thompson Peak and the line-of-sight benefits for radio communications technologies.

ANALYSIS & ASSESSMENT

Action Taken _____

The Intergovernmental Agreements allow the City to install and operate the public safety radio communications equipment on Thompson Peak. The three IGA documents address separate use issues between the City, the County and the State:

- 1) Intergovernmental Agreement No. 2012-191-COS with Maricopa County is the “master” agreement between the City and Maricopa County for the installation and operation of the City’s public safety radio communications on County properties and for the installation and operation of the County’s public safety radio communications equipment on City properties. This master agreement provides the City and the County the ability to install and operate a radio site on each other’s properties. Each location that is used for a radio site under this IGA will require a Site-Specific Supplemental Agreement that outlines terms and conditions that addresses the unique issues and conditions of each radio site.
- 2) Intergovernmental Agreement No. 2012-192-COS with the State of Arizona, Department of Public Safety (ADPS) for the installation and operation of municipal and public safety radio communications equipment at the DPS radio site on Thompson Peak. The IGA with ADPS is required for the City to install and operate antennas on the ADPS tower and to install and operate the associated radio equipment in the ADPS equipment shelter.
- 3) Intergovernmental Agreement No. 2012-193-COS with Maricopa County and the State of Arizona, Department of Public Safety for the installation and operation of municipal and public safety radio communications equipment on the County property on Thompson Peak. This IGA serves as the Site-Specific Supplemental Agreement (SSSA) for the City’s municipal and public safety radio communications on the ADPS site (2012-192-COS) that is located on Maricopa County’s property on Thompson Peak. The SSSA allows the City to continue its use of the County tower and equipment shelter for the City water department’s SCADA telemetry communications system, and approves the City’s use of the ADPS tower and equipment shelter at this County property for the City’s antennas and radio equipment.

Recent Staff Action

The City’s IT Department and radio communications team have been working closely with ADPS and the Regional Wireless Cooperative to fulfill the City’s need to install microwave dishes and SCADA antennas on Thompson Peak. The monthly cost of \$60.50 (sixty dollars and fifty cents) for each microwave dish or antenna includes mounting space on the tower for the microwave dishes and radio antennas, as well as the space and electricity in the communications building for the electronic equipment. The agreement includes the ability for ADPS to provide technical and radio services support for the City’s radio equipment.

Policy Implications

The City has a long standing working relationship with Maricopa County on Thompson Peak as evidenced by the original lease agreement for the City’s use of the County’s radio site on Thompson Peak executed in October 1982. The IGA with Maricopa County (2012-191-COS) is an updated

agreement for the City and County to continue this cooperative relationship and to expand the radio communications coverage in the region.

The IGA with the ADPS is the first Agreement between the City and ADPS for use of an ADPS radio tower communications site. The co-location of City radio communications equipment serves a public purpose by improving the City's ability to wirelessly communicate with City campus locations and numerous water and public safety radio sites.

The Agreements are valid for a period of one (1) year and are **automatically renewed** unless canceled by either party upon written notice thirty (30) days prior to expiration of the Agreements.

RESOURCE IMPACTS

Available funding

The monthly cost for the microwave dishes and antennas are included in the IT Department's FY2012-2013 operating budget; the projected first year operating costs is estimated to be \$2,200 (two thousand two hundred dollars and 00/100).

Staffing, Workload Impact

The IT Department's radio engineering staff is prepared to include the additional work that is required to project manage the installation of the microwave and radio equipment and to perform ongoing routine maintenance and repair of the equipment. The IGAs provide the City the ability to utilize County and ADPS technical and radio services personnel, if needed, to assist with the ongoing operation of the City's radio equipment.

Maintenance Requirements

In addition to the City's IT Department's radio engineering staff, the County's Wireless Division, and the ADPS's Wireless System Bureau have technicians that may conduct some of the maintenance and repair work on the City's radio communications equipment.

Future Budget Implications

The estimated annual costs for the City's use of the tower, equipment shelter and ongoing maintenance will be included in the IT Department's future annual operating budgets.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach

Adopt Resolution 9269 authorizing Intergovernmental Agreement No. 2012-191-COS with Maricopa County for the installation and operation of municipal and public safety radio communications equipment on City and County properties.

Adopt Resolution 9270 authorizing Intergovernmental Agreement No. 2012-192-COS with the State of Arizona, Department of Public Safety for the installation and operation of municipal and public safety radio communications equipment at the DPS radio site on Thompson Peak.

Adopt Resolution 9271 authorizing Intergovernmental Agreement No. 2012-193-COS with Maricopa County and the State of Arizona, Department of Public Safety for the installation and operation of municipal and public safety radio communications equipment on the County property on Thompson Peak.

Proposed Next Steps

The IT Department's radio engineering staff will finalize the microwave radio design and order the microwave and radio equipment necessary for the operation of the radio services.

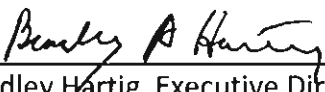
RESPONSIBLE DEPARTMENT(S)

Information Technology and Police Department

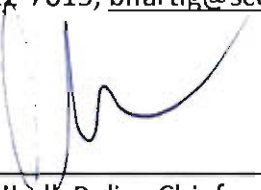
STAFF CONTACTS (S)

Shannon Tolle, Communications Director (480) 312-7631

APPROVED BY


Bradley Hartig, Executive Director – IT Department
(480) 312-7615, bhartig@scottsdaleaz.gov

11/16/12
Date


Alan Rodbell, Police Chief
(480) 312-1900, arodbell@scottsdaleaz.gov

11/16/12
Date

ATTACHMENTS

1. Resolution 9269
2. Intergovernmental Agreement 2012-191-COS
3. Resolution 9270
4. Intergovernmental Agreement 2012-192-COS
5. Resolution 9271
6. Intergovernmental Agreement 2012-193-COS

RESOLUTION NO. 9269

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT NO. 2012-191-COS BETWEEN THE CITY OF SCOTTSDALE AND MARICOPA COUNTY FOR THE ESTABLISHMENT OF A MODERN AND RELIABLE PUBLIC SAFETY RADIO COMMUNICATIONS SYSTEM FOR SCOTTSDALE AND THE COUNTY.

The County is the landowner of several public safety radio communications sites in Maricopa County that include structures to mount antennas and microwave dishes that the City desires to use to improve the City's public safety and municipal communications in Scottsdale; and

The City has several public safety radio communications sites that are used to operate its public safety radio and municipal radio communications that the County desires to use to improve the County's public safety and municipal communications in Maricopa County; and

The City and the County desire to enter into site-specific supplemental agreements ("SSSA" or "SSSAs") for the installation and maintenance of Radio Communication Systems on the Sites.

BE IT RESOLVED by the Council of the City of Scottsdale as follows:

Section 1. The City Council authorizes and directs the Mayor to execute, on behalf of the City of Scottsdale, Intergovernmental Agreement No. 2012-191-COS with Maricopa County for the establishment of a modern and reliable public safety radio communications system for Scottsdale and the County.

PASSED AND ADOPTED by the Council of the City of Scottsdale the 4th day of December, 2012.

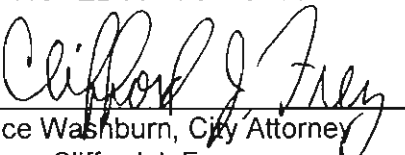
ATTEST:

CITY OF SCOTTSDALE
An Arizona municipal corporation

Carolyn Jagger, City Clerk

W. J. "Jim" Lane, Mayor

APPROVED AS TO FORM:



Bruce Washburn, City Attorney
By: Clifford J. Frey
Senior Assistant City Attorney

The foregoing Agreement has been submitted to legal counsel to Maricopa County for review and approval. The undersigned attorney has determined that said agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

Dated this _____ day of _____, 2012.

By _____
Deputy County Attorney

The foregoing Agreement has been submitted to the City Attorney for the City of Scottsdale. The City Attorney has determined that said agreement is in the proper form and is within the powers and authority granted under the laws of the State of Arizona.

Dated this 14th day of November, 2012.

Clifford J. Frey
Bruce Washburn, City Attorney

By: Clifford J. Frey
Senior Assistant City Attorney

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF SCOTTSDALE
AND
MARICOPA COUNTY**

This Intergovernmental Agreement ("IGA" or "Agreement") is entered into this _____ day of _____ 2012, by and between the City of Scottsdale, an Arizona municipal corporation, hereinafter referred to as "SCOTTSDALE", and Maricopa County, a political subdivision of the state of Arizona, hereinafter referred to as "COUNTY.", together, the "Parties" or individually a "Party".

RECITALS

WHEREAS, the purpose of this Agreement is to fulfill the need for the establishment of modern and reliable radio communication systems and related equipment ("Communication Systems") for SCOTTSDALE and COUNTY and to locate the Communication Systems on the real property owned respectively by SCOTTSDALE and COUNTY. The use of SCOTTSDALE real property ("Scottsdale Sites") for the purpose of providing COUNTY with much needed radio coverage and the use of COUNTY real property ("County Sites") ("Scottsdale Sites" and "County Sites" shall collectively be referred to herein as the "Site" or "Sites") for the purpose of providing SCOTTSDALE much needed radio coverage not presently available will enhance the communications systems of the Parties; and

WHEREAS, this Agreement is to include all Sites where space and technical parameters allow non-interfering operation between existing services and any new services proposed by SCOTTSDALE or COUNTY; and

WHEREAS, SCOTTSDALE and COUNTY shall enter into site-specific supplemental agreements ("SSSA" or "SSSAs") for the installation and maintenance of Communication Systems on the Sites. The SSSAs will be reviewed annually by the SCOTTSDALE Communications Administrator and COUNTY's Wireless Systems Manager. The SSSAs and any amendments thereto are hereby incorporated into and made a part of this Agreement; and

WHEREAS, all radio communications system components shall be provided by the benefiting agency unless outlined in Site-Specific Supplemental Agreements; and

WHEREAS, any site improvements necessary to accommodate the required radio communications systems as outlined in this Agreement and its supplements shall be made and costs borne by the Benefiting Agency, as hereafter defined; and

WHEREAS, the cost of permitting, engineering and maintenance of the required radio communications systems as outlined in this Agreement and its supplements shall be borne by the Benefiting Agency, as hereafter defined; and

WHEREAS, COUNTY is authorized to enter into this Agreement pursuant to A.R.S. § 11-952 et seq. and SCOTTSDALE is authorized to enter into this Agreement by approval of the Scottsdale City Council pursuant to A.R.S. § 11-952 et seq.

TERMS OF AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and undertakings of the parties hereinafter set forth, it is hereby agreed as follows:

1. Recitals. The Recitals, by this reference, shall be incorporated herein and are made a part of this Agreement.
2. Co-Location. For the purpose of providing needed radio services, COUNTY has need of Communications Systems located on SCOTTSDALE Sites and SCOTTSDALE has need of Communications Systems located on COUNTY Sites. The Parties hereby agree to make the Sites available for the co-location of the radio communications equipment of the other, to the fullest extent that this is technically and legally feasible, pursuant to the terms of this Agreement.
3. Term/Renewal. This Agreement shall become effective as of the date it is executed by the Chairman of the Maricopa County Board of Supervisors and shall remain in full force and effect for a term of one (1) year and is automatically renewed for nine (9) additional one (1) year periods unless canceled by either Party upon written notice at least six (6) months prior to the expiration of this Agreement.
4. Benefiting Agency. For each Site used by the other benefiting agency, that "benefiting" agency ("Benefiting Agency") agrees to:
 - a) Use the Site solely for the public safety and welfare. This IGA does not expressly or impliedly authorize the Benefiting Agency to install additional Communication Systems on the Sites outside of any replacement/upgrade components to its Communication Systems already in place on a Site pursuant to an SSSA or any amendment thereto. Should additional Communication Systems need to be added to any Site, the Parties shall enter into a new SSSA or amend the SSSA that pertains to the particular Site. The use of the Sites pursuant to the terms of this IGA or any SSSA shall be solely for Communication Systems for the public safety and welfare and those uses necessary to operate the Communication Systems. The Benefiting Agency shall not use the Communication Systems or the Sites for any use not authorized herein. This IGA shall be considered automatically revoked without further action by the Host Agency, as hereafter defined, if the unauthorized use is not corrected within thirty (30) days after written notice, pursuant to Section 14 below, is received by the Benefiting Agency.
 - b) Contact the appropriate hosting agency department to coordinate installation or removal of equipment. Installation and construction of Communication Systems on the Sites is contingent upon the Benefiting Agency obtaining building permits from the Hosting Agency and, unless otherwise waived in writing by the appropriate local jurisdiction, Benefiting Agency shall obtain all legally required permits and approvals from the appropriate local jurisdiction. If County is the Host Agency as hereafter defined, the Benefiting Agency shall notify the Director of the Maricopa County Department of Planning and Development when building plans are being submitted. Approval of an SSSA or any amendment to an SSSA shall not be considered the granting of any permit or receipt of any type of approval from the Host Agency or the agency with jurisdiction. Upon completion

of any installation or construction on the Sites the Benefiting Agency shall provide a copy of the as-builts to the Host Agency. Construction or installation of Communication Systems shall not cause interference with communication systems or equipment already on the Site and the Parties shall work together to ensure all Communication Systems work without interference.

- c) Provide maintenance for their Communication Systems using agency personnel, or technical personnel from an outside service provider acceptable to the hosting agency. A Benefiting Agency or Host Agency technician shall be present when work is performed by an outside service provider inside the host's building or on the host's tower.
- d) Provide current copies of FCC licenses needed to operate radio communications equipment to the host agency.
- e) Be responsible for notifying the hosting agency when entering or leaving the host agency's buildings. See ATTACHMENT 1 for contact phone numbers.
- f) Ensure the security of the Sites and will not allow unauthorized persons to have access thereto. Benefiting Agency shall not allow any nonofficial use of the Sites by private or commercial organizations without the prior written consent of the host agency.
- g) Remove all trash and debris on the Sites and dispose of it in an appropriate manner. No equipment or materials shall be stored outside of any enclosure.
- h) Pay or cause to be paid taxes of whatever character which may be levied or charged upon the rights of the Benefiting Agency to use the Site and/or the Communication Systems pursuant to this IGA.
- i) Pay for any and all costs and expenses associated with the planning, construction, installation, operation and maintenance of the Benefiting Agency's Communication Systems. If any improvements currently existing on the Sites need to be removed and or relocated to construct and/or install the Benefiting Agency's Communication System, the removal and relocation of the improvements and the costs associated therewith shall be borne solely by the Benefiting Agency.

5. Host Agency. For each Site used by the Benefiting Agency, the "host" agency ("Host Agency") agrees to provide:

- a) Access to and from the Sites for the construction, installation, operation and maintenance of the Communication Systems.
- b) Engineering services, if requested and available, to install radio communications equipment.
- b) Building and tower space, if requested and available, to install the Benefiting Agency's Communication Systems.
- c) Rigger services, if requested and available, to install and maintain the antennas

and antenna feed-lines.

- d) Commercial AC power and standby AC power where available at cost. No markup of utility charges will occur, and the total due will be the net amount per billing period from all sites under this agreement. Other power arrangements may be agreed upon within the Site-Specific Supplemental Agreements.
 - e) Contact to any users associations, and landlords (i.e., BLM, Forest Service, State Land) to obtain any necessary permission for this additional use and submit to the Benefiting Agency for reimbursement any additional costs to these entities caused by the Benefiting Agency's installation of equipment.
6. Payment of Services. Both agencies have technical staff to perform the tasks needed, however, should the Host Agency be asked to perform any tasks, the Benefiting Agency will reimburse the Host agency for all services requested at the current labor rates in effect.
- a) The Benefiting Agency shall pay the Host Agency for the cost of host-employee labor, plus all related expenses for each class of employee engaged in the necessary services. Authorized overtime shall be reimbursed at one and one-half times the hourly rates of host-employees, plus all related expenses for each class of employee engaged in the necessary services.
 - b) The Benefiting Agency shall pay the Host Agency for all parts, materials, equipment or supplies purchased by the Host Agency to provide requested services. This will include actual costs incurred for the purchase of all parts or supplies, plus any shipping or handling expenses charged by the vendor. Neither agency will charge any subsequent mark-up, administrative charges, or handling charges on any parts, materials or supplies purchased to perform the above-stated services.
7. Ownership of Communication Systems. It is expressly understood and agreed that the Benefiting Agency retains title to all equipment installed by it and may modify, replace or remove such equipment when necessary. The Parties acknowledge that all Communication Systems of the Benefiting Agency shall be deemed personal property of the Benefiting Agency.
8. Compliance with laws. The Parties agree to comply with all federal, state and local statutes, laws, ordinances, rules, regulations and instructions which relate to the construction, reconstruction, management, operation and maintenance of the Communication Systems. The Parties shall further comply with the following in their performance of this Agreement:
- a) Equal Employment Opportunity. The Parties shall not discriminate against any employee or applicant for employment because of race, age, handicap, disability, color, religion, sex or national origin. The Parties shall comply with Title VI and Title VII of the Federal Civil Rights Act; the Federal Rehabilitation Act; the Age Discrimination in Employment Act; the Americans with Disabilities Act of 1990, A.R.S. § 41-1461 et seq., A.R.S. § 41-1492 et seq., 29 USCA § 721 (Section 504), and Arizona Executive Order 75-5 which mandates that all persons shall have equal access to employment opportunities and any changes thereto or to

any new laws or requirements implemented during the term of this Agreement.

- b) Immigration Reform and Control Act of 1986 (IRCA). The Parties understand and acknowledge the applicability of the Immigration Reform and Control Act (IRCA). The Parties agree to comply with the IRCA in performance of this IGA and, upon request, permit inspection of personnel records to verify such compliance.
- c) Employer Sanctions Law.

Both parties warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge:

That each party and its subcontractors, if any, warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214, Subsection A;

That a breach of a warranty under this Section 6(c) shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the Agreement;

That each party retains the legal right to inspect the papers of the other party or its subcontractor's employee(s) who work under this Agreement to ensure that the party or subcontractor is complying with the warranty provided under Section 4.4.1 above and that each party agrees to make all papers and employment records of said employee(s) available during normal working hours in order to facilitate such an inspection;

- d) Verification Regarding Compliance with Arizona Revised Statutes §§ 35-391.06 and 35-393.06 Business Relations with Sudan and Iran.

By entering into this Agreement, the Parties certify that they do not have scrutinized business operations in Sudan or Iran. Each party agrees to obtain statements from its subcontractors certifying compliance and shall furnish the statements to the other party's Procurement Officer upon request that they do not have scrutinized business operations or Sudan or Iran. These warranties shall remain in effect through the term of the Agreement.

Both parties may request verification of compliance from the other for any contractor or subcontractor performing work under this Agreement that the contractor or subcontractor does not have scrutinized business operation or Sudan or Iran. Should either party suspect or find that the other party's contractor or any of its subcontractors are not in compliance with this provision, that party may pursue any and all remedies allowed by law, including, but not limited to, suspension of work, termination of the Agreement for default, and suspension or debarment of the contractor. All costs necessary to verify compliance with this provision are the responsibility of the party from whom compliance is sought.

- 9. Entry and Inspection. The Host Agency shall have the right at all times to enter onto and inspect the Sites and the Communication Systems on the Sites. Host Agency will notify Benefiting Agency of any unsatisfactory condition relative to the construction,

management, operation and maintenance of the Sites and the Communication Systems on the Sites. Benefiting Agency shall take immediate action to correct such condition(s) at Benefiting Agency's expense.

10. Environmental Compliance. If activities of the Benefiting Agency result in adverse environmental impacts on any Site, the Benefiting Agency will be fully accountable for any resulting Site assessment and cleanup cost required to restore the property. Host Agency will not seek compensation or restitution from Benefiting Agency as a "Potentially Responsible Party" for any release of a contaminant/hazardous substance on the premises prior to the effective date of this IGA.

- a) Subject to the provisions set forth herein, Host Agency agrees the Benefiting Agency may use, generate and store any hazardous material at or on the Sites as long as it is solely for the construction and/or installation, operation and maintenance of the Communication Systems.
- b) Benefiting Agency shall provide to Host Agency, in writing, a complete list identifying all hazardous material or petroleum products and approximate quantities to be brought on site and when such products will be removed.
- c) Additionally, Benefiting Agency shall prepare and implement any necessary remediation action plan in accordance with all applicable federal, state, and city statutes, laws, ordinances, rules and regulations. Benefiting Agency shall keep Material Safety Data Sheets documents on site for those materials and products.
- d) Benefiting Agency shall report to Host Agency within twenty-four (24) hours of knowledge of any event or occurrence at the Sites which may or does result in pollution or contamination adversely affecting lands, water or facilities owned or managed by the Host Agency, including the facilities which are subject of this IGA.
- e) Benefiting Agency shall protect, defend, indemnify and hold harmless Host Agency from and against all liabilities, costs, charges and expenses, including civil or criminal penalties, attorney's fees and court costs arising out of or related to any activity involving or use of a regulated substance under any applicable federal, state, or local environmental laws, regulations, ordinances or amendments thereto because of: (a) any such substance that came to be located on any Site and/or the Communication Systems due to Benefiting Agency's use or occupancy of the Sites pursuant to the terms of this IGA, any SSSA or any amendment(s) to this IGA or any SSSA; or (b) any release, threatened release or escape of any substance in, on, under or from said Site that is caused, in whole or in part, by any conduct, action or negligence of the Benefiting Agency.

For the purposes of this IGA, the term "regulated substances" shall include substances defined as "regulated substances," "hazardous waste," "hazardous substances," "hazardous materials," "toxic substances" or "pesticides" in the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, the Comprehensive Environmental Response, Compensation and Liability Act, as amended in 1986 to include Superfund Amendments and Reauthorization Act, the Hazardous Materials Transportation Act, the Toxic Substance Control Act, the Federal Insecticide, Fungicide and

Rodenticide Act, the relevant local and state environmental laws, and the regulations, rules and ordinances adopted and publications promulgated pursuant to the local, state, and federal laws. This indemnification shall include, without limitation, claims or damages arising out of any violations of applicable environmental laws, regulations, ordinances, rules or subdivisions thereof. This environmental indemnity shall survive the expiration or termination of this IGA or any amendment thereto and/or any transfer of all or any portion of the Sites and shall be governed by the laws of the State of Arizona, if applicable. Benefiting Agency accepts sole responsibility and liability for all wastes produced by its operation, activities and occupation of the premises and shall comply with all applicable laws concerning such wastes, including federal, state, and local regulatory requirements. Any such waste must be disposed of in compliance with the above.

- f) Benefiting Agency agrees it shall be solely responsible for and assumes all responsibility for the actions of Benefiting Agency, its agents, employees and contractors in generating, storing, releasing, placing or allowing to remain on the property any hazardous substances, hazardous wastes, or toxic substances (hereinafter collectively referred to as "Hazardous Substances"), as those terms as defined and regulated under CERCLA, 42 U.S.C. 9601 et seq., RCRA, 42 U.S.C. 6901 et seq., or TSCA, 15 U.S.C. 2601 et seq. Benefiting Agency further agrees to comply with all environmental laws and regulations and to take such other actions as may be reasonably required to protect against environmental liabilities. Any such "hazardous substances" must be disposed of pursuant to and in compliance with all required laws and regulations concerning the use and disposal of such substances.
- g) Management and proper disposal of all hazardous material is the responsibility of Benefiting Agency. Benefiting Agency must keep appropriate and required documentation relating to the management and disposal of all hazardous material.
- h) Host Agency agrees to defend, indemnify, and hold harmless Benefiting Agency and its officials, electeds, agents and employees against all loss, liability, or expense relating to personal, property, or economic injury arising from the presence of Hazardous Substances located on any Site (other than any such Hazardous Substances generated, stored, released, placed or allowed to remain on the Property by the Benefiting Agency, its officials, electeds, agents, employees and contractors in violation of the law).

11. Insurance. The Parties acknowledge and agree they are each self-insured.

- a) If, during the term of this IGA, any property, buildings, fixtures, equipment or improvements under control of the Benefiting Agency shall be destroyed or damaged in whole or in part by fire or any other cause, except condemnation, the Benefiting Agency shall give immediate notice to Host Agency. Benefiting Agency shall immediately secure the area to prevent injury, vandalism and further damage to person, improvements and contents thereof. In the event the property, buildings, equipment or improvements were destroyed or damaged due to the act, negligence or omission of the Benefiting Agency, its employees or contractors, the Benefiting Agency, at its discretion, may restore the premises at least to the extent permitted by insurance proceeds. The Benefiting Agency shall be responsible for cleaning-up

and restoring the premises to a condition reasonable under the circumstances and acceptable to Host Agency. If the Communication Systems are capable of restoration within ninety (90) days of the damage or destruction to the real property and/or the improvements thereon, and if the Benefiting Agency determines it will restore the Communication Systems, this IGA shall continue in full force and effect.

- b) If Benefiting Agency can demonstrate and Host Agency may corroborate, that the Communication Systems are not capable of restoration within ninety (90) days of the damage or destruction to the real property and/or the improvements thereon, Benefiting Agency shall have the right to terminate this IGA or install a temporary facility, subject to the permit and approval requirements of this IGA, for such length of time as necessary to complete restoration and resume operation.
- c) If Benefiting Agency determines it will restore the Communication Systems, Benefiting Agency shall, as soon after damage as possible, apply for all required permits of whatever nature to restore damaged improvements, and complete restorations within a date mutually agreeable to the Parties. Should such damage or destruction occur within twelve (12) months of the IGA's normal termination date, the Parties may mutually agree to the extent of the restoration, if any.

12. Default; Remedies.

- a) Scottsdale Default. Each of the following shall constitute a material breach of this IGA and an event of default by Scottsdale ("Scottsdale Event of Default") hereunder: Scottsdale's failure to observe or perform any of the material covenants, conditions or provisions of this IGA to be observed or performed by Scottsdale, where such failure shall continue for a period of thirty (30) days after Scottsdale receives written notice of such failure from County provided, however, that such failure shall not be a Scottsdale Event of Default if Scottsdale has commenced the cure within such thirty (30) day period and thereafter is diligently pursuing such cure to completion, but the total aggregate cure period shall not exceed ninety (90) days unless Scottsdale and County agree in writing that additional time is reasonably necessary under the circumstances to cure such default.
- b) County Remedies. In the event Scottsdale fails to perform any of its material obligations under this IGA and is in default pursuant to Section 12(a) of this IGA, County may, at its option, terminate this IGA. Further, upon the occurrence of any Scottsdale Event of Default and at any time thereafter, County may, but shall not be required to, exercise any remedies now or hereafter available to County at law or in equity.
- c) County Default. Each of the following shall constitute a material breach of this IGA and an event of default by County ("County Event of Default") hereunder: County's failure to observe or perform any of the material covenants, conditions or provisions of this IGA to be observed or performed by County, where such failure shall continue for a period of thirty (30) days after County receives written notice thereof from Scottsdale provided, however that such failure shall not be a County Event of Default if County has commenced the cure within such thirty (30) day period and thereafter is diligently pursuing such cure to completion, but the total aggregate cure period shall not exceed ninety (90) days unless County and Scottsdale agree in

writing that additional time is reasonably necessary under the circumstances to cure such default.

- d) Scottsdale Remedies. In the event County fails to perform any of its material obligations under this IGA and is in default pursuant to Section 12(c) of this IGA, Scottsdale may, at its option, terminate this IGA. Further, upon the occurrence of any County Event of Default and at any time thereafter, Scottsdale may, but shall not be required to, exercise any remedies now or hereafter available to Scottsdale at law or in equity.
13. SCOTTSDALE and COUNTY will compute a bill or voucher on a monthly basis for all services referenced in Paragraph Six (6) of this Agreement. The final total will be the net amount due after all site-specific costs are computed and submitted to the agency that has a balance due. The billing will be for a period of service for which it is submitted (e.g., "previous month") and will include a description of the locations where services were performed. All bills or vouchers submitted pursuant to this Agreement shall be dated and reflect the Agreement number. All final bills or vouchers will be submitted to the agency that has a balance due. All records regarding a bill or voucher, including employee time sheets and accounting logs must be retained in compliance with Arizona State Law Records Retention Schedule. That agency with the balance will prepare the necessary forms to forward payment.
14. Notice Addresses. All notices herein required to be given to County in writing and all payments herein required shall be sent to:

COUNTY

Maricopa County
Manager, Maricopa County Wireless Systems
3324 W. Gibson Lane
Phoenix, Arizona 85009

with a copy to:

Maricopa County
Attn: Real Estate Manager
301 W. Jefferson, Suite 960
Phoenix, Arizona 85003

SCOTTSDALE

Communications Director
City of Scottsdale
7384 E. 2nd Street
Scottsdale, Arizona 85251
ATTN: Communications Department

- a) Notice Requirements. All notices required or permitted by this IGA or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, and shall be deemed sufficiently given if served in a manner specified in this Section. The addresses specified in Section 14 shall be that Party's

address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice.

- b) Date of Notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier.
15. Indemnification. To the extent permitted by law, each Party, as indemnitor, agrees to indemnify, defend, and hold harmless the other Party, as indemnitee, from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims are caused by the act, omission, negligence, misconduct, or other fault of the Party and its officers, officials, agents, employees, or volunteers.
16. Conflicts. This Agreement shall be subject to the provisions of A.R.S. § 38-511.
17. Return of Premises. At the termination or expiration of this IGA, Benefiting Agency shall return the Sites to Host Agency in good condition within sixty (60) days. Benefiting Agency may abandon the improvements made thereon or shall remove said improvements and restore the Sites to their original condition if so directed by Host Agency.
18. No Assignment. Neither party to this Agreement shall assign any of the rights received pursuant to the terms of this IGA without the prior written consent of the other Party.
19. Time is of the Essence. Time is of the essence of this IGA. If the date for performance of any obligation hereunder or the last day of any time period provided herein shall fall on a Saturday, Sunday or legal holiday of the State of Arizona, then said date for performance or time period shall expire on the first day thereafter which is not a Saturday, Sunday or a legal holiday. Unless otherwise specifically indicated to the contrary, the word "days" as used in this IGA shall mean and refer to calendar days and not business days.
20. No Partnership or Joint Venture. Nothing contained in this IGA shall create any partnership, joint venture or other arrangement between County and Scottsdale. Except and expressly provided herein, no term or provision of this IGA is intended or shall be for the benefit of any person or entity not a party hereto, and no such other person or entity shall have any right or cause of action hereunder.
21. Venue; Governing Law. The proper venue for any proceeding at law or in equity shall be Maricopa County, Arizona and the County and Scottsdale hereby waive any right to object to venue. This IGA shall be construed in accordance with and be governed by the laws of the State of Arizona.
22. Entire Agreement. This IGA, together with any exhibits attached hereto, any agreements executed contemporaneously herewith or any SSSA's entered into by the

Parties, constitutes the entire agreement between the Parties and sets forth all of the covenants, promises, agreements, conditions and understandings between County and Scottsdale, and there are no covenants promises, agreements, conditions or understandings, either oral or written, between County and Scottsdale other than as set forth herein. This IGA shall be construed as a whole and in accordance with its fair meaning and without regard to any presumption or other rule requiring construction against the party drafting this IGA. This IGA cannot be modified or changed except by a written instrument executed by County and Scottsdale. County and Scottsdale have reviewed this IGA and have had the opportunity to have it reviewed by legal counsel. This Agreement does not imply authority to perform any tasks, or accept any responsibility, not expressly stated in this Agreement. This Agreement does not create a duty or responsibility unless the intention to do so is clearly and unambiguously stated in this Agreement.

23. Waiver. Waiver by either Party of any breach of any term, conditions or covenant herein contained shall not be deemed to be a waiver of any other term, condition or covenant herein, or of a subsequent breach of any term, covenant or condition herein. Either Party's consent to, or approval of, any subsequent or similar act shall not be deemed to render unnecessary the obtaining of either Party's consent to, or approval of, any subsequent or similar act by the other, to be construed as the basis of an estoppel to enforce the provision or provisions of this IGA requiring such consent.
24. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be valid under applicable law, but if any provision shall be invalid or prohibited thereunder, such provision shall be ineffective to the extent of such prohibition or invalidation but shall not invalidate the remainder of such provision or the remaining provisions of this Agreement.
25. Authority to Execute. Any individual executing this IGA on behalf of or as representative for a governmental entity, corporation or other person, firm, partnership or entity represents and warrants that he/she is duly authorized to execute and deliver this IGA on behalf of said governmental entity, corporation, person, firm, partnership or other entity, that all approvals have been obtained and that this IGA is binding on said entity in accordance with its terms.
26. Headings. Sections and other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Lease.
27. Cooperation. County and Scottsdale agree to execute and/or deliver to each other such other instruments and documents as may be reasonably necessary to fulfill the covenants and obligations to be performed by County and/or Scottsdale pursuant to this IGA.
28. This Agreement is subject to the notice requirements of A.R.S. § 11-256.01.
29. Agreement as License. The Parties intend and mutually agree that this Agreement shall be construed as a mere license by Host Agency to Benefiting Agency to operate within the Sites. This Agreement shall not be construed as a lease, sublease, rental agreement or easement. It is understood and mutually agreed that Benefiting Agency has no interest whatsoever in the Sites.

IN WITNESS WHEREOF, the parties hereto agree to carry out the terms of this Agreement and have executed this Agreement the day and year first written above.

**MARICOPA COUNTY, a political subdivision
of the State of Arizona**

**CITY OF SCOTTSDALE, an Arizona
municipal corporation**

By: _____

By: _____

W. J. "Jim" Lane

Title: Chairman of the Board of Supervisors

Its: Mayor

Attest:

Attest:

Carolyn Jagger

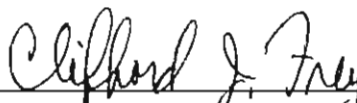
Clerk of the Board

Date

City Clerk

Date

I hereby state that I have reviewed the proposed Intergovernmental Agreement, between Maricopa County and the City of Scottsdale, pursuant to A.R.S. § 11-952, and declare the Agreement to be in proper form and within the powers and authority granted to the City of Scottsdale under the laws of the State of Arizona.


 Bruce Washburn, City Attorney
 By: Clifford J. Frey
 Senior Assistant City Attorney

Nov. 14, 2012
 Date

I hereby state that I have reviewed the proposed Intergovernmental Agreement, between the Maricopa County and the City of Scottsdale, pursuant to A.R.S. § 11-952, and declare the Agreement to be in proper form and within the powers and authority granted to Maricopa County under the laws of the State of Arizona.

By: _____

Christopher Keller
 Deputy County Attorney

Date

ATTACHMENT "1"

SCOTTSDALE contact information: Telephone Number

SCOTTSDALE Communications Department (480) 312-2622

PD Dispatch Supervisor (480) 312-5000

Utility Control Center (480) 312-5750

Wireless Communications Administrator (480) 312-7631

COUNTY contact information:

Wireless Systems Manager (602) 506-5264

Wireless Systems Technical Manager (602) 506-1193

Wireless Systems Main (during work hours) (602) 506-1191

Wireless Systems Fax (602) 506-4753

MARICOPA County Protective Services (602) 506-8335
(after hours)

Wireless Systems Standby Tech pager 602) 204-9558

RESOLUTION NO. 9270

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT NO. 2012-192-COS BETWEEN THE CITY OF SCOTTSDALE AND THE ARIZONA DEPARTMENT OF PUBLIC SAFETY (ADPS) FOR THE ESTABLISHMENT OF A MICROWAVE AND SCADA RADIO COMMUNICATIONS SYSTEM ON THE ADPS THOMPSON PEAK SITE.

It is necessary for the City to establish a microwave and SCADA radio communications system on the ADPS Thompson Peak providing Scottsdale with much needed redundant radio coverage not presently available; and

The Thompson Peak radio site has space and technical parameters permitting non-interfering operations between existing service and any new services proposed by the City of Scottsdale in the future; and

All radio communications system components will be provided by the City of Scottsdale.

BE IT RESOLVED by the Council of the City of Scottsdale as follows:

Section 1. The City Council authorizes and directs the Mayor to execute, on behalf of the City of Scottsdale, Intergovernmental Agreement No. 2012-192-COS with the Arizona Department of Public Safety for the establishment of a microwave and SCADA radio communications system on the ADPS Thompson Peak site.

PASSED AND ADOPTED by the Council of the City of Scottsdale the 4th day of December, 2012.

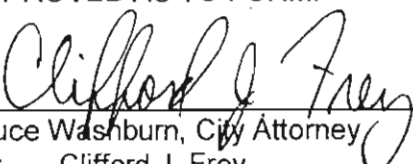
ATTEST:

CITY OF SCOTTSDALE
An Arizona municipal corporation

Carolyn Jagger, City Clerk

W. J. "Jim" Lane, Mayor

APPROVED AS TO FORM:



Bruce Washburn, City Attorney
By: Clifford J. Frey
Senior Assistant City Attorney

INTERGOVERNMENTAL AGREEMENT
BETWEEN
The City of Scottsdale
AND
DEPARTMENT OF PUBLIC SAFETY

This Agreement is entered into this ____ day of _____ 2012, by and between the State of Arizona, Department of Public Safety, hereinafter referred to as "ADPS", and the City of Scottsdale.

WHEREAS, the purpose of this Agreement is to fulfill the need for the establishment of a microwave and SCADA radio communications system on the ADPS Thompson Peak site for the purpose of providing Scottsdale with much needed redundant radio coverage not presently available; and

WHEREAS, this Agreement is for the Thompson Peak radio site where space and technical parameters allow non-interfering operation, between existing service, and any new services proposed by the City of Scottsdale; and

WHEREAS, all radio communications system components will be provided by; and

WHEREAS, the City of Scottsdale has indicated its intent to pay the cost of engineering, and maintenance of the required radio communications systems as outlined in this Agreement; and

WHEREAS, the City of Scottsdale and ADPS are authorized to enter into this Agreement pursuant to A.R.S. § 41-1711 (B), A.R.S. § 41-1713 (B) (3), and A.R.S. § 11-952, et. seq.

NOW THEREFORE, in consideration of the mutual promises and undertakings of the parties hereinafter set forth, it is hereby agreed as follows:

1. For the purpose of providing needed radio services, the City of Scottsdale has need of radio communications systems located on the ADPS Thompson Peak radio site.
2. The City of Scottsdale agrees to:
 - a. Provide maintenance for the City of Scottsdale radio communications equipment using technical personnel from a service provider acceptable to ADPS. A Scottsdale Technician/employee or ADPS Technician must be on the site when this maintenance work is performed, or as provided in this Agreement, use ADPS services for system maintenance.
 - b. Contact the ADPS Telecommunication Manager to coordinate installation or removal at the ADPS Thompson Peak site.
 - c. Provide current copies of FCC licenses needed to operate radio communications equipment to the host agency.

- d. Be responsible for notifying the ADPS test center, or, after hours, ADPS Security, when entering or leaving ADPS buildings, when unaccompanied by an ADPS technician.
3. For Scottsdale radio communications systems on the ADPS Thompson Peak site, ADPS agrees to provide, as agreed to in the Three-Way Site Specific Supplement Agreement:
 - a. Building and tower space to install the Scottsdale owned radio communications equipment.
 - b. Tower rigging services, as necessary, to install and maintain the Scottsdale antennas and antenna feedlines. ADPS will normally provide rigger services Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m.
 - c. Commercial AC power and standby AC power where available.
 - d. Contact any users associations, and landlords (e.g., Maricopa County) to obtain any necessary permissions for this additional use and submit to Scottsdale for reimbursement any additional costs caused by the installation of the Scottsdale equipment.
4. Scottsdale will reimburse ADPS for all services listed in Paragraph Three (3) of this Agreement, in addition to the following items and services, listed in the Arizona Department of Public Safety Wireless Systems Bureau Billing Rates, a copy of which is attached hereto and forms a part of this Agreement as Attachment 2:
 - a. For each hour of employee time, plus all related expenses for each class of employee engaged in the necessary services. Authorized overtime shall be reimbursed at one and one-half times the hourly rate, plus all related expenses for each class of employee engaged in the necessary services. Travel costs (vehicle mileage, employee time, per diem) shall be reimbursed in accordance with State of Arizona guidelines. Travel costs shall be pro-rated when services are provided to more than one site user during the same trip.
 - b. For all parts or supplies purchased by ADPS to provide the above-stated services. This will include actual costs incurred by ADPS for the purchase of all parts or supplies, plus any shipping or handling expenses charged by the vendor. ADPS will not charge any subsequent mark-up, administrative charges, or handling charges on any parts or supplies purchased to perform the above-stated services.
 - c. Antenna site charges reflect communication site operation. Antenna site charges are charged for each radio and allows use of building space, commercial and standby AC power, where available; plus required space on the site tower.
5. ADPS will bill or voucher Scottsdale on a monthly basis for all services referenced in Paragraph Three (3) of this Agreement. The billing will be for a period of service for which it is submitted (e.g., "previous month") and will include a description of the locations where services were performed and the equipment serviced. All bills or vouchers submitted pursuant to this Agreement shall be dated and reflect the Agreement number. All bills or vouchers will be submitted to the following Scottsdale address after

which Scottsdale, in a timely manner, will prepare the necessary forms to forward payment, and any needed information to ADPS at the following address for crediting to the ADPS appropriations account:

City of Scottsdale
Radio Engineering Manager
Information Technology
7384 E Second St
Scottsdale, AZ 85251

ADPS
Arizona Department of Public Safety
P.O. Box 6638
MS 2800
Phoenix, Arizona 85005-6638
ATTN: Wireless Systems Bureau

All records regarding a bill or voucher, including employee time sheets and accounting logs, must be retained in compliance with A.R.S. § 35-214.

6. This Agreement is valid for a period of (1) year from filing with the Arizona Secretary of State, and is automatically renewed unless canceled by either party upon written notice thirty (30) days prior to expiration of the Agreement. Additionally, either party may cancel the Agreement upon written notice to the other party thirty (30) days prior to the effective date. The agencies may terminate this Agreement at the end of any fiscal year without penalty, future payment, or damages, provided funds for the continuation of this Agreement are not appropriated by the Legislature of the State of Arizona, or by the Scottsdale City Council. The fiscal year ends on June 30 of each year.
7. This Agreement shall not become effective until signed by both parties.
8. This Agreement may be amended or changed only upon written agreement of both parties.

For the purposes of adding services or equipment to ADPS communications sites a "SITE SPECIFIC SUPPLEMENT AGREEMENT" shall be entered into to cover the desired service. The "Supplement" will list the desired services and the associated costs. Site Specific Supplemental Agreement(s) consistent with the provisions set forth in this Agreement shall be created or modified by both ADPS and the City of Scottsdale with the concurrence of Maricopa County and incorporated into this Agreement upon approval of the designated agents of each party. Originals of these "Supplements" shall be maintained with the ADPS copy of the IGA by the Wireless Systems Bureau. The supplemental agreement will be signed by the ADPS Wireless Systems Bureau Manager and the City of Scottsdale Radio Engineering Manager.

City of Scottsdale
Radio Engineering Manager
Information Technology
7384 E Second St
Scottsdale, AZ 850251

ADPS
Arizona Department of Public Safety
P.O. Box 6638
MS 2800
Phoenix, Arizona 85005-6638
ATTN: Wireless Systems Bureau

9. Upon termination or cancellation of this Agreement, property used to provide the above-stated services which belong to ADPS or Scottsdale shall, within a reasonable time period not to exceed 60 days, be removed from service, and returned to the respective owner or to a mutually-agreed-upon location.
10. All parties are hereby put on notice that this Agreement is subject to cancellation by the Governor of the State of Arizona pursuant to A.R.S. § 38-511, the provisions of which are incorporated herein.
11. During the performance of this Agreement, the parties agree not to discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, or because he or she has a physical or mental handicap, or because he or she is a disabled veteran or a veteran of the Vietnam era. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The parties agree that Executive Order 99-4 is hereby fully incorporated herein by reference.
12. Arbitration: To the extent required by A.R.S. §§ 12-1518(B) and 12-133, the Parties agree to resolve any dispute arising out of this Agreement by arbitration.
13. Indemnification: Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. However, if the common law or statute provides for either a right to indemnify and/or a right to contribution to any party to this agreement, then the right to pursue one or both of these remedies is preserved.

IN WITNESS WHEREOF, the parties hereto agree to carry out the terms of this Agreement and have executed this Agreement the day and year first written above.

CITY OF SCOTTSDALE, an
Arizona municipal corporation

Robert Halliday
Director
Department of Public Safety

W. J. "Jim" Lane, Mayor

ATTEST:

Attorney General


Carolyn Jagger, City Clerk

Date

Date

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

In accordance with A.R.S. § 11-952, this Agreement has been reviewed by the undersigned who determined that this Agreement is in appropriate form and within the powers and authority of the respective Parties.



Bruce Washburn,
City Attorney, City of Scottsdale
By: Clifford J. Frey
Senior Assistant City Attorney

~~November~~
Date: ~~December~~ 14, 2012

ATTACHMENT 1

	Telephone Number
ADPS Wireless Systems Manager	(602) 223-2260
ADPS test center	(602) 223-2245
ADPS Security	(602) 223-2283
City of Scottsdale Contacts:	
Milan Dobras Radio Engineering Manager	(480) 312-7254
Shannon Tolle Communications Director	(480) 312-7631

ATTACHMENT 2

Wireless Systems Bureau
Billing Rates

Telecommunications Supervisor	\$46.25 per hour
Telecommunications Engineer	\$37.45 per hour
Telecommunications Drafting Technician	\$26.65 per hour
Tower Technician Trainee	\$22.10 per hour
Telecommunications Coordinator	\$31.75 per hour
Radio Installer	\$18.00 per hour
Generator Technician	\$29.35 per hour
Tower Technician	\$27.30 per hour
Tower Technician Supervisor	\$34.70 per hour
Telecommunications Technician	\$31.50 per hour
Radio/Antenna Charge	\$60.50 per Radio/antenna Per month

MILEAGE RATES USED TO DETERMINE OTHER TRAVEL COSTS
FOR SPECIAL VEHICLES & AIRCRAFT

Helicopter:	\$329.00 per hour
Snowcat:	\$ 36.00 per hour

RESOLUTION NO. 9271

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT NO. 2012-193-COS BETWEEN THE CITY OF SCOTTSDALE, MARICOPA COUNTY, AND ARIZONA DEPARTMENT OF PUBLIC SAFETY (ADPS) FOR THE ESTABLISHMENT OF A MODERN AND RELIABLE PUBLIC SAFETY RADIO COMMUNICATIONS SYSTEM FOR SCOTTSDALE ON THOMPSON PEAK.

The County is the landowner of several public safety radio communications sites in Maricopa County, including the County radio site on Thompson Peak; and

The ADPS has a public safety radio communications site on Thompson Peak that the City desires to use in order to improve the City's public safety and municipal radio communications; and

The City, County and ADPS agree to the terms in the site-specific supplemental agreements ("SSSA") for the installation and maintenance of the City's Public Safety Radio Communication Systems on the ADPS site on Thompson Peak.

BE IT RESOLVED by the Council of the City of Scottsdale as follows:

Section 1. The City Council authorizes and directs the Mayor to execute, on behalf of the City of Scottsdale, Intergovernmental Agreement No. 2012-193-COS with Maricopa County and ADPS for the establishment of a modern and reliable public safety radio communications system for Scottsdale on Thompson Peak.

PASSED AND ADOPTED by the Council of the City of Scottsdale the 4th day of December, 2012.

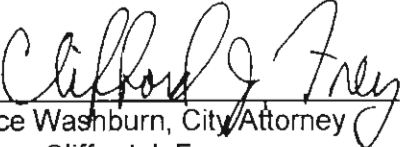
ATTEST:

CITY OF SCOTTSDALE
An Arizona municipal corporation

Carolyn Jagger, City Clerk

W. J. "Jim" Lane, Mayor

APPROVED AS TO FORM:



Bruce Washburn, City Attorney
By: Clifford J. Frey
Senior Assistant City Attorney

MARICOPA COUNTY Agreement Number C-18-13-015-3-00

AZDPS Contract Number _____

AG Contract Number _____

**SITE-SPECIFIC SUPPLEMENTAL AGREEMENT
TO
INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE COUNTY OF MARICOPA,
THE STATE OF ARIZONA, DEPARTMENT OF PUBLIC SAFETY
AND
THE CITY OF SCOTTSDALE**

This Site Specific Supplemental Agreement ("SSSA") is entered into this _____ day of _____ 2012, by and between the State of Arizona, Department of Public Safety, a branch of the Arizona state government ("AZDPS"), the City of Scottsdale ("SCOTTSDALE"), an Arizona municipal corporation and Maricopa County ("COUNTY"), a political subdivision of the State of Arizona ("AZDPS," "SCOTTSDALE" and "COUNTY" shall collectively be referred to herein as the "Parties").

RECITALS

WHEREAS, COUNTY and AZDPS are parties to that certain Intergovernmental Agreement dated September 18, 2002 ("DPS IGA"). The purpose of the DPS IGA is to fulfill the need for the establishment of modern and reliable radio communication systems for AZDPS and COUNTY. The DPS IGA is hereby incorporated into this SSSA.

WHEREAS, COUNTY and AZDPS are parties to that certain Site-Specific Supplemental Agreement #2 ("DPS SSSA") dated November 7, 2007 through which COUNTY grants AZDPS permission to construct a communications tower on the County owned Thompson Peak Site (the "Site"). The DPS SSSA is hereby incorporated into this Agreement.

WHEREAS, COUNTY and SCOTTSDALE are parties to that certain Intergovernmental Agreement dated _____ ("SCOTTSDALE IGA"). The purpose of the SCOTTSDALE IGA is to fulfill the need for the establishment of modern and reliable communication systems for SCOTTSDALE and COUNTY and to locate the needed communications systems on real property owned by COUNTY. The SCOTTSDALE IGA is hereby incorporated into this Agreement. This SSSA is entered into pursuant to the terms of the SCOTTSDALE IGA.

WHEREAS, SCOTTSDALE and AZDPS are parties to that certain Intergovernmental Agreement dated _____ ("AZDPS/SCOTTSDALE IGA"). The purpose of the AZDPS/SCOTTSDALE IGA is to fulfill the need for the

establishment of modern and reliable radio communication systems for AZDPS and SCOTTSDALE. The AZDPS/SCOTTSDALE IGA is hereby incorporated into this SSSA.

WHEREAS, the Parties desire to enter into this SSSA to permit SCOTTSDALE to place its communications system and related equipment on the AZDPS tower and within the AZDPS equipment building on the County owned Thompson Peak Site.

TERMS OF AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and undertakings of the Parties hereinafter set forth, it is hereby agreed as follows:

1. RECITALS. The Recitals, by this reference, shall be incorporated herein and are made a part of this SSSA.
2. CAPITALIZED TERMS: All capitalized terms, if not defined herein, shall have the same meanings ascribed to them in their respective IGA or SSSA.
3. COUNTY RESPONSIBILITIES:
 - a. Provide SCOTTSDALE ingress and egress to the Site for the installation, operation and maintenance of SCOTTSDALE'S Communications Systems and related equipment on the tower and building operated by AZDPS.
 - b. Except as provided for herein, provide SCOTTSDALE with space on COUNTY's tower and within COUNTY's equipment building for the following: 1) Three (3) omni/whip-style antennas and one (1) Yagi-style antenna; and 2) Equipment Building: electronics that support the SCADA telemetry system in the space equal to one standard 19 inch wide by 84 inches high rack.
 - c. The Parties hereby agree this SSSA does not give AZDPS or SCOTTSDALE the authority to enter into any other agreement with a third-party to construct a new communication tower or building or to add facilities, antennae, microwave dishes and/or any other type of equipment to an existing tower or building, without the formal written approval of the Maricopa County Board of Supervisors, such approval shall not be unreasonably withheld. The Parties further agree COUNTY shall be a party to any third-party agreement. If a third-party agreement is proposed, to ensure compatibility with existing users of the Thompson Peak site, frequency information of the third party shall be provided to the existing users prior to the approval and execution of the third-party agreement. This information will allow existing users to evaluate whether the proposed third-party use is compatible with existing equipment at the site.

- d. NOTICE IS HEREBY PROVIDED and the Parties hereby agree that approval of this SSSA by the Maricopa County Board of Supervisors does not constitute approval by Maricopa County of any permits or approvals that may be necessary. AZDPS and/or SCOTTSDALE shall be responsible and are required to obtain any and all necessary permits from the requisite federal, state or local jurisdiction(s).
- e. All work to be completed and all equipment to be purchased and installed pursuant to this SSSA shall be at no cost to COUNTY.

4. SCOTTSDALE RESPONSIBILITIES:

- a. SCOTTSDALE shall work cooperatively with AZDPS and COUNTY to install its Communications Systems on the DPS tower positioned on the County owned Thompson Peak site located in the McDowell Mountains.
- b. SCOTTSDALE shall ensure the operation and maintenance of its Communication Systems does not interfere with any other equipment on the Site.
- c. SCOTTSDALE shall pay its pro rata share of on-going utilities and site maintenance fees. The pro rata share shall be calculated based on the percentage of in-service 120 VAC circuits used by SCOTTSDALE equipment. This percentage shall be applied to the total monthly utilities and maintenance fees incurred to determine SCOTTSDALE'S share. These fees (utilities and site maintenance) constitute the extent of SCOTTSDALE'S ongoing fees unless other arrangements are negotiated and this SSSA is amended. In addition, SCOTTSDALE agrees to be a member of, and abide by the rules and regulations established by, the Thompson Peak Improvement Association including the payment of annual dues.
- d. SCOTTSDALE shall bear all equipment and installation costs for the Communication Systems to be installed pursuant to this SSSA or any amendment thereto.

5. AZDPS RESPONSIBILITIES:

- a. AZDPS shall work cooperatively with SCOTTSDALE and COUNTY in order for SCOTTSDALE to install its Communications Systems on the DPS tower.
- b. AZDPS shall manage and ensure the Site is maintained and kept in good working order.
- c. AZDPS shall provide SCOTTSDALE with sufficient floor space in its equipment building ("Building") to accommodate SCOTTSDALE'S equipment: one standard 19 inch wide by 84 inches high rack for the

electronics that support the SCADA telemetry system, and one standard 19 inch wide by 84 inches high rack for the microwave equipment. SCOTTSDALE'S equipment will be powered by a shared site battery backup system provided by AZDPS and located in the Building. In addition, AZDPS agrees to provide sufficient tower space to accommodate SCOTTSDALE'S antennas, including three (3) omni/whip-style antennas and one (1) Yagi-style antenna, and two (2) 6-foot diameter microwave dishes.

d. AZDPS shall remain a member in good standing of the Thompson Peak Improvement Association.

6. CANCELLATION: The Parties agree that the term of this SSSA will be governed by the DPS IGA, the SCOTTSDALE IGA and the AZDPS/SCOTTSDALE IGA. Should the Parties decide to cancel this particular SSSA, then the cancellation shall follow the process defined in the respective IGA's.

7. ENTIRE AGREEMENT. This SSSA, together with any exhibits attached hereto and any agreements executed contemporaneously herewith, constitutes the entire agreement between the Parties and sets forth all of the covenants, promises, agreements, conditions and understandings between COUNTY, SCOTTSDALE and AZDPS, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between COUNTY, SCOTTSDALE and AZDPS other than as set forth herein. This SSSA shall be construed as a whole and in accordance with its fair meaning and without regard to any presumption or other rule requiring construction against the party drafting this SSSA. This SSSA cannot be modified or changed except by a written instrument executed by COUNTY, SCOTTSDALE and AZDPS.

MARICOPA COUNTY	CITY OF SCOTTSDALE
AUTHORIZED SIGNATURE:	AUTHORIZED SIGNATURE:
TYPED NAME:	TYPED NAME: W.J. "Jim" Lane
TITLE: Chairman of the Board of Supervisors	TITLE: Mayor, City of SCOTTSDALE
DATE:	DATE:
ATTEST: Clerk of the Board	ATTEST: City Clerk

ARIZONA DEPARTMENT OF PUBLIC SAFETY	
AUTHORIZED SIGNATURE:	
TYPED NAME:	
TITLE: Director, Arizona Department of Public Safety	
DATE:	

The foregoing Agreement has been submitted to legal counsel for the County for review and approval. The undersigned attorney has determined that said agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

Dated this _____ day of _____, 2012

By _____
Deputy County Attorney

The foregoing Agreement has been submitted to the City Attorney for the City of SCOTTSDALE. The City Attorney has determined that said agreement is in the proper form and is within the powers and authority granted under the laws of the State of Arizona.

Dated this 14th day of November, 2012

By Clifford J. Frey
Bruce Washburn, City Attorney

By: Clifford J. Frey
Senior Assistant City Attorney